

ENVIRONMENTAL PROTECTION COMMISSION  
REGULAR MEETING/PUBLIC HEARING  
MINUTES

September 3, 2008  
Room 206, Town Hall

Chairman Hillman called the meeting to order at 7:35 P.M. Commission Members Present: Peter Hillman, Michael Tone, Susan Cameron, Craig Flaherty, Rick Rohr, Pete Kenyon and Ellen Kirby.

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Mr. Hillman read the first agenda item:

EPC-40-2008, Glazer Construction, 135 Five Mile River Road, proposing house demolition and new house construction within an upland review area. The site is shown on Assessor's Map #67 as Lot #4 (hearing closed August 6).

The Commission reviewed the draft resolution and made changes.

Ms. Cameron made a motion to approve the application. Mr. Tone seconded the motion and it passed 6-0-1 (Mr. Flaherty abstained).

Mr. Hillman read the next agenda item:

EPC-46-2008, Town of Darien, LaForge Road and Dubois Street, proposing drainage improvements in an upland review area within Town roads (hearing closed August 26).

Mr. Hillman said he watched the public hearing on Channel 79.

The Commission reviewed the draft resolution and made changes.

Ms. Cameron made a motion to approve the application. Ms. Kirby seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-47-2008, David Martens, 11 Bittersweet Lane, proposing a house addition within an upland review area. The site is shown on Assessor's Map #27 as Lot #27.

Mr. Martens represented himself. He said Otto Theall did the soil survey showing the wetland soils less extensive than shown on the Town map. He said the work proposed will be outside of the regulated area. Mr. Hillman said the map will be updated during the next revision process.

Mr. Hillman made a motion to approve the application. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

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EPC-50-2008, Jenny and Mike Doyle, 95 Mansfield Avenue, proposing to replace retaining wall within an upland review area. The site is shown on Assessor's Map #17 as Lot #28.

Mrs. Doyle represented herself.

Mr. Hillman asked if they had a stamped and sealed engineer's drawing. Mrs. Doyle said they have hired Todd Ritchie of Stearns & Wheler. She requested permission to move the shed and swing set temporarily. The Commission had no objection.

The Commission continued the matter to the next meeting.

Mr. Hillman read the next agenda item:

EPC-51-2008, Philippe and Jenny Vongerichten, 11 Oak Park Avenue, proposing fence construction in an upland review area. The site is shown on Assessor's Map #23 as Parcel #15.

Mr. Hillman read the next agenda item:

Mrs. and Mrs. Vongerichten represented themselves. She said they are proposing a fence to keep the neighborhood children from crossing the stream.

Mr. Hillman asked if they will leave a small space under the fence. Mrs. Vongerichten said yes.

Mr. Flaherty asked how close to the stream would the fence be. Mrs. Vongerichten said 3 feet. Mr. Flaherty said the area is in a localized flood zone. He said the fence should be installed properly to avoid becoming a flood hazard. Mr. Vongerichten said the fence would be even with existing fences on either side.

Ms. Cameron made a motion to approve the application. Mr. Kenyon seconded the application and it passed 6-0-1 (Mr. Flaherty abstained).

Mr. Hillman read the next agenda item:

EPC-52-2008, James and Kimberly Lewis 10 Mystic Lane, proposing a house addition in an upland review area. The site is shown on Assessor's Map #18 as Lot #60.

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Mark Lebow, L.S., William Seymour Associates represented the applicant. He said they provided a revised plan, test hole data and revised details prepared by Rob Frangione, P.E. He said the new drainage system will address the rate of runoff and water quality.

Ms. Cameron said the watercourse is showing signs of erosion.

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Mr. Lebow said the planting plan was prepared by Alexandra Moch. Mr. Flaherty asked if they would agree to a 10 foot buffer along the stream edge. Mr. Lebow said they would agree to provide a buffer. Mr. Hillman said they could work with staff to develop a planting plan.

Mr. Hillman made a motion to approve the application with the added stipulation of a ten foot buffer. Mr. Kenyon seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item

EPC-53-2008, Donald and Cathy Allman, 55 Arrowhead Way, proposing septic system repair in an upland review area. The site is shown on Assessor's Map #69 as Lot #18.

Doug DiVesta, P.E. represented the applicant. He said they are proposing to replace/repair an existing septic system. He said the only suitable soil on site is the area tested.

Mr. Hillman asked him what the closest point of the septic to the wetland will be. Mr. DiVesta said there will be disturbance ten feet from the wetland. Mr. DiVesta said they would provide buffer plantings.

Mr. Flaherty asked where the existing drain outlets to. Mr. DiVesta said to the catch basin.

Mr. Hillman asked why not repair the existing system in the same location. Mr. DiVesta said the area has poor soils and poor hydraulics. He said the system is sized for a four bedroom house which is the same as the existing house.

Mr. Kenyon said he would like a stipulation like note #35 that no garbage disposals, large tubs or water treatment tanks are allowed. Mr. DiVesta said the health department requires that. The Commission requested staff note the requirement in the body of the approval.

Mr. Hillman made a motion to approve the application. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-54-2008, Land Rover of Darien, 90 Post Road, proposing a building addition and changes to drainage in an upland review area. The site is shown on Assessor's Map #32 as Lot #3.

Jacek Bigosinski represented the applicant.

Mr. Hillman said it appears there is no increase in coverage. They are covering an existing parking lot. He asked if they are moving the existing drainage system. Mr. Bigosinski said yes, it is also not located exactly where it is shown on the plan.

Mr. Kenyon asked if the current outflow is deep enough to handle traffic. Mr. Bigosinski said yes, it is 10 feet deep.

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Mr. Tone asked if there are floor drains in the bays. Mr. Bigosinski said none. Mr. Flaherty asked if there is an existing oil and grit separator. Mr. Bigosinski said yes. Mr. Flaherty said he would like to see a more complete description of the stormwater management system and comments on the existing and new system from the engineer.

The Commission continued the item to September 18.

Mr. Hillman called the following hearing item.

EPC-48-2008, Hallie and James Palen, 45 Brookside Road, proposing grading, terrace, and walls within an upland review area. The site is shown on Assessor's Map #15 as Lot #17.

The hearing was continued to October 1.

Mr. Hillman read the next agenda item:

EPC-55-2008, Alexander and Nancy Sheed, 85 Maywood Road, proposing septic system replacement in an upland review area. The site is shown on Assessor's Map #4 as Lot #106.

Alexander Sheed represented himself. He said they are proposing a new septic in Norwalk and Darien. He said Norwalk has approved the plan.

Mr. Hillman asked how many bedrooms will be in the house. Mr. Sheed said six.

Mr. Kenyon asked what watershed the property is in. Mr. Sheed said the Five Mile River.

Ms. Cameron made a motion to approve the application. Mr. Hillman seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

58 Sunswyck Road, William and Rose Marie Shanahan, Request from Wilder G. Gleason, Esquire to adjust open space area.

Mr. Rohr was recused for this application.

Attorney Wilder Gleason represented Mr. and Mrs. Shanahan. He said the purpose of the 25 foot swath of land was to provide dock access. He said the zoning regulations consider the dock a structure and the walkway would not meet zoning setbacks. He said they are proposing to split the easement and provide additional area.

Mr. Hillman said he would like to review the minutes from the P&Z approval to determine the intent of the P&Z Commission.

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Ms. Cameron suggested they consider widening the access way and providing more easement area where it would be more valuable along the slope.

The Commission will review alternate plans at a future meeting.

Mr. Hillman read the first hearing next item:

EPC-31-2008, Katherine Michele, 19 Stephanie Lane, proposing demolition of existing residence, construction of new dwelling and pool, and related site development within an upland review area. The site is shown on Assessor's Map #8 as Lot #67. (continued from July 9 and August 6)

Larry Liebman, S.E. Minor, Inc., represented the applicant. He said they have provided plan revisions and a wetland assessment. He provided a review of the wetland description. He said the revised plan reduced the proposed impervious surface area by 20% from the original application by using pervious pavement and less pavement and patio area. He said that in 1990 the owners received a wetland permit to clear a portion of the wetland and create lawn.

Mr. Rohr said the plans show the same size house. Mr. Liebman said it was reduced by 400 square feet.

Mr. Hillman said the house is huge for the neighborhood. He said it is too large, but that is not in the EPC's purview.

Ms. Cameron said the wall was still right up to the edge of the wetland. She said the house was still too large.

Mr. Liebman said he could not give his personal opinion, but he believes the application meets the Commission's regulations.

Ms. Cameron asked if they would consider doubling the wetland restoration. Cory Walton, Landscape Architect, said they currently have 9000 square feet of lawn and they are converting approximately 2,600 sq. ft. back to wetland.

Mr. Flaherty asked if they could move the house forward. Vince Falotico, Architect, said they would like to leave it where it is because it would be too close to the road.

Mr. Rohr asked about the drainage calculations and if they are including void area in the stone. Len Chesney, P.E. said they considered a 35% void ratio.

Mr. Hillman asked Mr. Chesney to provide an overview of the drainage plan. Mr. Chesney said they sized the system for a 100 year storm. He said the roof leaders will be directed to Cultech units. Mr. Hillman asked if the water will be treated. Mr. Chesney said only for temperature. He said the Cultech units will overflow when full. He said the driveway runoff will infiltrate through a network of pipes. He said they are storing all of the site runoff.

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Ms. Cameron asked if the current house has a basement and if the new house will have a basement. Mr. Chesney said the current house has a basemen and the new house will have a waterproof basement.

Mr. Kenyon asked about the nature of the porous pavement. Mr. Liebman said it looks like asphalt. He said there is a detail on the plan and he will provide the web site of the manufacturer.

Ms. Cameron asked if they would accept a stipulation of no sump pump. Mr. Liebman said any other additional activity would have to come back to the Commission.

Mr. Hillman opened the hearing for public comment.

Tricia and Chris Conley, Stephanie Lane, said their main concern is the scale of the house and the tree clearing. Their property is the lowest point on the street.

Ms. Conley asked for an explanation of the storage tanks. Mr. Chesney described the drainage system.

Ms. Conley asked if there would be water directed to their backyard. Mr. Liebman said the water flowing to their wetland will be the same as today. He said the wetland functions as flood storage including the portion that is lawn. He said they could move the erosion controls closer to the pipe to reduce disturbance.

Ms. Conley asked why they didn't tie into the Town storm drain. Mr. Liebman said they could not because of Town policy. She asked about trees to be removed. Mr. Walton said the trees are marked in the field. Mr. Liebman said there will still be a 40-45 foot buffer between the pool and their property.

Mr. Hillman asked if the trees marked with ribbons were proposed to come down. Mr. Walton said yes. Mr. Rohr said he saw trees flagged 8-10 feet into the woods.

Mr. Tone asked the Conleys if they receive runoff now from the property to theirs. Mr. Conley said he is not sure. Mr. Liebman said yes. Mr. Tone asked if the applicant was representing that there would be no change in surface runoff to the Conleys. Mr. Liebman said yes. Mr. Tone asked if there would be a change in the wetland saturation. Mr. Liebman said no.

Ms. Cameron said removing the trees will create a new edge and result in the need for more tree removal.

Mr. Hillman asked how far the drainage discharge could be moved from the property line. Mr. Liebman said they could angle the level spreader along the stone wall. Mr. Flaherty asked if they could move it to the stockpile area. Mr. Liebman said they could look at that.

The Commission desired to keep the public hearing open until the next meeting, to review the alternative locations for the level spreader, to allow the Commission to further consider the proposed trees to be removed, and discuss other possible modifications. Mr. Liebman said they would accept

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conditions of approval for make modifications that had already been discussed but that he was directed by his client to not grant a time extension for the hearing to be continued. Hence Mr. Liebman said the applicant was not willing to consider additional changes.

Mr. Hillman expressed disappointment over the applicant's instructions. He made a motion to close the public hearing. Mr. Flaherty seconded the motion and it passed unanimously.

The Commission proceeded to deliberate.

Mr. Hillman said that given the applicant's intransigence and what he felt was not yet a satisfactory proposal, he would prefer to deny the application without prejudice.

Mr. Flaherty agreed with Mr. Hillman.

Mr. Tone said that without the information requested the applicant has not addressed the criteria for approval in the regulations.

Mr. Rohr said the application does not provide enough topographic information in the North West corner near the level spreader to determine if the flow pattern will have an adverse impact.

Mr. Flaherty said there is an alternative of moving the house forward to the front yard setback to be farther away from the wetland.

The Commission requested staff prepare a draft resolution to deny the application without prejudice.

Mr. Hillman read the next hearing next item:

EPC-32-2008, Ellen McCue, 17 Top'O Hill Road, requesting after the fact approval to complete filling and stone wall construction within an upland review area. The site is shown on Assessor's Map # 29 Lot #87. (continued from August 6).

Mr. Flaherty said he has watched the DVD of the previous hearing and will participate.

Attorney Eric Bernheim represented the applicant. He said they have addressed the concerns of the neighbors. He reviewed the proposal and the history of the survey and the wetland delineation that they became aware of after the work was started.

Mr. McCue said they have spoken with the neighbors and would like to work to improve the drainage situation.

Tom Nelson, McChord Engineering, said the original design intent was to insure no increase in runoff. He said the Cultec units will overflow in larger storms. He said the main concern of Mrs. Knag is the increase in flow across the McGrath property to the her property. He said the solution is to direct the water to the north. He said the water going to the Deaver property to the South will be directed to a swale along the property line.

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Henry Moeller provided his report and discussed his findings. He said there is no direct impact or encroachment on the wetland. He said the plan will direct the water to the north of a drainage divide in the wetland. He said there would be a negative impact from the work to remove the wall and it will create steeper slopes. He said there is a limit to the permeability of the soils for the infiltrator structures. Too much water behind the retention wall may cause it to break out where it is not wanted.

Mr. Hillman asked if his professional opinion is that the project will not have a negative impact on the drainage and will improve the drainage. Mr. Moeller said yes.

Mary Ann Knag said she is an abutting property owner. She said she has been observing the wetland for 29 years. She said runoff onto the property is acceptable but she would like it to go the larger wetland. She said that since construction of the house the water has been diverted through the McGrath property to her backyard. She said she is concerned with the new impervious surface proposed. She said she does not want the runoff to get worse. Mr. Hillman said he is cautiously optimistic the problem will get better. Ms. Knag said she would like a grassy swale to the wetland.

Ms. Cameron asked if they could provide more shrubs at the top of the wall. Mr. Maroun said they could add shrubs. Ms. Cameron said she is concerned with the slope between the pool and the wall. She said she would like to see more deciduous trees below the wall. Mr. Nelson said the slope could be vegetated with lawn.

David Dever, Top O'Hill Road, said they have done work to correct the erosion over the tree roots and they have added a swale to the plan to correct runoff onto his property.

Mr. Rohr asked if there is room to implement the swale. Mr. Nelson said they will need to pull back the slope.

The Commission continued the public hearing to September 18 to allow the applicant to revise the grading plan and prepare a new planting plan.

Mr. Hillman read the next hearing next item:

EPC-36-2008, Robert and Justine Stewart, 24 Cross Road, proposing house demolition and new house construction within an upland review area. The site is shown on Assessor's Map #69 as Lot #11 (hearing was opened on August 6 and immediately continued to September 3). Joseph Risoli, P.E. represented the applicant.

Mr. Hillman said there is a lot of construction proposed but very little in the regulated area that presents significant issues.

Mr. Risoli said there is a minimal increase in coverage. They are removing four trees and replacing them with 5 Oak trees. He said the property flows are bisected. The front will have a Cultec detention system. The rear of the house will be directed to a rain garden. He said the rain garden will be nine

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inches deep with no outlet. Water will percolate into the soil. He said no basement is proposed and there will not be a significant increase in runoff.

Ms. Cameron said there is a 48" tree in the septic area that is misidentified. It is actually a Sweet Gum. She asked if the septic could be moved away from it. Mr. Risoli said it would not be impacted by the fill but could be harmed during construction. He said they can take precautions to protect it during construction.

It was the consensus of the Commission that option number one was the best plan since it contains the rain garden.

Mr. Tone made a motion to close the public hearing. Mr. Rohr seconded the motion and it passed unanimously.

The Commission proceeded to deliberate.

The Commission members agreed it was a good plan and presentation and requested staff prepare a draft resolution of approval.

Mr. Hillman made a motion to approve the Minutes of May 7. Ms. Cameron seconded the motion and it passed 4-0-3 (Mr. Tone, Mr. Kenyon and Mr. Rohr abstained).

Ms. Cameron made a motion to approve the minutes of May 21. Mr. Tone seconded the motion and it passed 6-0-1. (Mr. Flaherty abstained).

The Commission approved the following bond releases:

Michelle and John Sini, 36 Birch Road  
Charles and Jennifer Parker, 84 Camp Avenue  
Casey Elliot, 40 Goodwives River Road

Mr. Rohr made a motion to adjourn. Ms. Kirby seconded the motion and it passed unanimously. The meeting adjourned at 11:20. P.M.

Respectfully submitted,

Richard B. Jacobson  
Environmental Protection Officer